



PA A JACKSON  
COMMISSIONER

*The Commonwealth of Massachusetts*  
*Department of Revenue*  
*Leverett Saltonstall Building*  
*100 Cambridge Street, Boston 02204*

January 31, 1985

You request clarification of Letter Ruling 81-91 regarding the Massachusetts taxation of income received by a Massachusetts resident from a New York State contributory public employee pension. You also ask whether taxable unemployment compensation is considered earned income for purposes of the computation of personal exemptions in item 45 of the 1983 Massachusetts Resident-Individual Income Tax Return Form 1.

I. Massachusetts General Laws Chapter 62, Section 3(B)(a)(4) provides a deduction from Part B adjusted gross income of:

...any income from a contributory annuity, pension, endowment or retirement fund of any state or any political subdivision thereof, provided that income from any such similar fund established under the laws of the commonwealth is not subject to taxation in such other state or political subdivision. (Emphasis supplied).

Pursuant to paragraph 3-a of N.Y. Tax Law, Section 612(c) income from a Massachusetts contributory public employee pension received by a New York resident is taxable if the recipient has not attained age 59½, or to the extent the income exceeds \$20,000 whatever the age of the recipient. (Letter Ruling 81-91)

Therefore, the deduction set forth in Section 3(B)(a)(4) of the General Laws Chapter 62 will not apply to the income received by a Massachusetts resident from a contributory New York State Teachers Pension. A Massachusetts resident must include all income received from a contributory N.Y. State Teachers Pension in Part B taxable income regardless

January 31, 1985

of whether the particular pension would be exempt from New York state tax.

II. For Massachusetts income tax purposes in determining the Part B taxable income, the Part B adjusted gross income is reduced by certain personal exemptions. Massachusetts General Laws Chapter 62, Section 3 B(b)(2)(A) provides in pertinent part, that a husband and wife filing a joint return are entitled to "...a personal exemption of two thousand two hundred dollars and an amount not exceeding two thousand two hundred dollars, equal to the earned income included in Part B gross income of the spouse having the smaller amount of such income...".

"Earned income" for purposes of this exemption is specifically defined to mean "...salary, wages, other employee compensation...". These terms are not further defined for purposes of the earned income exemption. The Massachusetts definition of "wages" supplied in G.L. c.62B, § 1 is explicitly for "...withholding purposes only...".

In Boston Ass'n of School Adm'rs & Supervisors v. Boston Retirement Board, 383 Mass. 336(1981) at 341 the Massachusetts Supreme Court indicated that the phrase, "salary, wages or other compensation" refers to remuneration geared to work or services performed.

The concept of "earned income" also arises in the context of federal income taxation. For federal income tax purposes the definition of "earned income" does not generally include unemployment compensation.

A federal "earned income" credit is available for certain low income workers. "The term "earned income" means ...wages, salaries, tips and other employee compensation ...". (Internal Revenue Code, Section 43). "Earned income [for purposes of this federal credit] does not include amounts received as ...unemployment compensation ...". (U.S. Treas. Reg. 1.43-2c(2)).

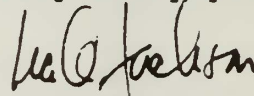
"Earned income" for purposes of calculating the federal two earners married couples deduction means "...income which is earned income within the meaning of section 911(d)(2) or 401(c)2(C)...". (I.R.C. § 221 (b)(2)). Code Section 911(d)(2) provides that "[t]he term "earned income" means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered...".

January 31, 1985

For Massachusetts income tax purposes, taxable unemployment compensation is not considered earned income for the purpose of computing the personal exemption available under Chapter 62, Section 3B(b)(2)(A) for a married couple filing a joint return.

Therefore unemployment compensation should not be included in the computation of earned income under item 45 of the Massachusetts Resident Individual Income Tax Return.

Very truly yours,



Commissioner of Revenue

IAJ:SFR:loc

LR 85-12